

Message Text

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64

ACTION EUR-25

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FM AMEMBASSY BONN

TO USIA WASHDC PRIORITY

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USIAC

E.O. 11652: N/A

SUBJECT: VOA AND BBC SHARED USE OF VOA TRANSMITTER TIME

REF: USIA 17455

1. EMBASSY AND USIS HAVE REVIEWED THE 1952 RPT 1952 AGREEMENT AND ITS ANNEX CONTAINING OPERATING CONDITIONS IN ACCORDANCE WITH WHICH TRANSMISSION OF RADIO PROGRAMS OF USG IN FRG TERRITORY WAS AGREED TO BY FRG. WE NOTE THAT ANNEX SECTION B PROVIDES THAT RADIO INSTALLATIONS "MAY BE USED ONLY FOR BROADCASTING PURPOSES OF THE GOVERNMENT OF THE US."

2. ALTHOUGH THE EMBASSY'S NOTE OF MARCH 8, 1973 OFFERING A PROSPECTIVE SETTLEMENT THROUGH ANNUAL PAYMENT FOR 20 YEARS OF NOMINAL \$10,000 TO SETTLE GEMA CLAIM HAS NOT BEEN ANSWERED AND THE ISSUE REMAINS OPEN; AND ALTHOUGH FRG MIGHT CONCEIVABLY TAKE OCCASION OF US REQUEST FOR PERMISSION TO ACCORD BBC BROADCAST TIME TO SEEK TO RE-OPEN 1952 AGREEMENT, EMBASSY BELIEVES THAT MATTER SHOULD AT LEAST BE INFORMALLY DISCUSSED DIRECTLY BETWEEN EMBASSY AND FONOFF. AN INFORMAL FONOFF INDICATION TO ANOTHER GOVERNMENT THAT THERE IS NO OBJECTION DOES NOT APPEAR TO BE ADEQUATE ASSURANCE

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IN VIEW OF ANNEX LANGUAGE WHICH WAS MADE AN INTEGRAL

PART OF THE 1952 AGREEMENT. WE BELIEVE, MOREOVER, THAT UK EMBASSY INFORMATION ABOUT FONOFF VIEW DOES NOT MEAN THAT THE FRG MINISTRY FOR POSTS AND TELECOMMUNICATIONS (FMPT) WAS CONSULTED AND CONCURRED (1952 AGREEMENT ANNEX HAS FRG GRANTING RIGHT TO OPERATE RADIO STATIONS "THROUGH THE FEDERAL MINISTER FOR POSTS AND TELECOMMUNICATIONS"). INITIATING THE EXCHANGE WITHOUT APPROPRIATE FRG APPROVAL COULD POSSIBLY JEOPARDIZE TAX AND LEVY EXEMPTIONS PROVIDED FOR IN SECOND PARA OF ARTICLE IV OF THE 1952 AGREEMENT, WHICH EXEMPTION IS WITHIN THE COMPETENCE OF ANOTHER FRG MINISTRY. TAKING INTO ACCOUNT FONOFF KNOWLEDGE OF OUR INTENTION TO PERMIT BBC USE OF THE VOA FACILITY, AN APPARENT BREACH OF 1952 AGREEMENT WITHOUT DIRECT US-FRG CONSULTATION, AT LEAST ON AN INFORMAL BASIS, MIGHT FURNISH A COMPELLING REASON OR BASIS FOR FMPT OR OTHER MINISTRY TO INSIST ON REOPENING OF 1952 AGREEMENT. SUCH CONSULTATION WITH FONOFF NOW WOULD ALLOW US TO CANCEL TIME EXCHANGE WITH BBC IF FRG INSISTS ON USING THIS PROPOSAL AS A PRETEXT FOR REOPENING THE 1952 AGREEMENT. IF AN INFORMAL CONSULTATION ON PERMISSION FOR BBC DOES NOT RAISE THE PROSPECT OF REOPENING THE AGREEMENT, AN INFORMAL AGREEMENT BETWEEN THIS EMBASSY AND THE FONOFF COULD MAKE A FORMAL EXCHANGE OF NOTES UNNECESSARY.

3. AS USG COULD BE HELD RESPONSIBLE FOR THE CONTENT OF BBC PROGRAMS TRANSMITTED THROUGH USG FACILITIES, WE SUGGEST DEPARTMENT AND AGENCY CONSIDER THE NEED FOR US-UK EXCHANGE OF NOTES TO INCLUDE PROVISION BY WHICH PARTY USING OTHER PARTY'S TRANSMITTER FOR BROADCAST WOULD UNDERTAKE TO KEEP THAT OTHER PARTY HARMLESS FROM ALL LIABILITY WITH RESPECT TO THE PROGRAM CONTENT OF THAT BROADCAST. ANY US-UK EXCHANGE SHOULD POSSIBLY ALSO RESERVE TO U.S. THE RIGHT TO TERMINATE THE EXCHANGE ARRANGEMENT WITH UK AT ANY TIME THAT WE CONSIDER THAT BBC USE OF VOA FACILITIES RAISES THE UNDESIRABLE POSSIBILITY THAT 1952 US-FRG AGREEMENT WOULD NEED TO BE RENEGOTIATED.

4. REGRET WE ARE UNABLE AT THIS TIME TO COMMENT ON LIMITED OFFICIAL USE

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LF/MF FREQUENCY ISSUE REFERRED TO IN PARA 3 REF MESSAGE.

5. IN VIEW OF PRESENT PLAN TO BEGIN THE NEW ARRANGEMENT OCT. 7, EMBASSY/USIS REQUEST A RESPONSE ASAP.
RUSSELL

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